



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

90 PARK AVENUE
NEW YORK, NY 10016-1314
212.682.7474 TEL
212.687.2329 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
212.338.3442
cdegennaro@foley.com

May 9, 2025

Via ECF

The Honorable Judge John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

**APPLICATION GRANTED
SO ORDERED**

5/12/25 
John G. Koeltl, U.S.D.J.

Re: *NCR Voyix Corporation v. Embarcadero Technologies Europe Limited*; Case No. 1:24-cv-04458-JGK

Dear Judge Koeltl,

We represent defendant and counterclaim plaintiff Embarcadero Technologies Europe Limited (“Embarcadero”), and we write, pursuant to Section VII of the Court’s Individual Practices to respectfully request the Court’s permission to seal, in connection with Embarcadero’s Motion for Summary Judgment, (1) the March 31, 2023 Settlement and Release Agreement (the “SA”) between Embarcadero and plaintiff and counterclaim defendant NCR Voyix Corporation (“NCR”), the interpretation of which is at issue in this action, (2) documents produced by NCR in discovery and stamped by NCR as confidential (the “Confidential Documents”) under the Agreed Protective Order (ECF No. 37), and (3) Embarcadero’s Memorandum of Law in Support of its Motion for Summary Judgment and Local Rule 56.1(a) Statement of Uncontested Material Facts, solely to redact quotations from the SA, references to the confidential settlement amount, and quotations from the Confidential Documents.

Section 8 of the SA includes a confidentiality provision that designates the entire agreement as confidential, and, as relevant here, the SA contains significant commercially sensitive terms, including a settlement amount payable under the Settlement Agreement, specifically negotiated license pricing terms. Notably, the Court has already permitted that the Settlement Agreement be filed under seal in this litigation. *See* ECF No. 15.

Pursuant to Section 16 of the Agreed Protective Order (ECF No. 37), Embarcadero seeks to file the Confidential Documents (and quotations therefrom) under seal in the first instance to give NCR an opportunity to move to seal them.

Pursuant to the Court’s Individual Practices, a copy of the Settlement Agreement and the Confidential Documents are filed contemporaneously herewith. Undersigned counsel met and conferred with opposing counsel regarding this sealing application, who advised that they needed further time to consult with their client. In the interest of time and to preserve the status quo of sealed filings, however, Embarcadero is proceeding with the instant motion in connection with its Motion for Summary Judgment at this time.

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO



FOLEY & LARDNER LLP

May 9, 2025

Page 2

We thank the Court for its attention to this matter.

Respectfully Submitted,

/s/ Christopher A. DeGennaro

Christopher A. DeGennaro